

requirements for non-retained experts as set forth in Rule 26(a) of the Federal Rules of Civil Procedure. Pursuant to Rule 37(c), the Court hereby orders that the deposition of Dr. Henry Small be reopened and finds that this remedy will cure any prejudice suffered by Defendants as a result of the Rule 26 violation. The Court further denies Defendants' challenge to Dr. Small's expert testimony under *Daubert v. Merrell Dow Pharmaceuticals*, 509 U.S. 579, 589 (1993) and Rule 702 of the Federal Rules of Evidence in light of the reopening of the deposition. This denial is without prejudice to refiling such challenge at a later date after the deposition.

IT IS FURTHER ORDERED that in all other respects the motion is **DENIED**.

SIGNED this 27th day of March, 2019.



ELIZABETH S. ("BETSY") CHESTNEY
UNITED STATES MAGISTRATE JUDGE